

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES *

December 14, 2016

AGENCY MEMBERS PRESENT

Doolittle, Robert S., Chair
Mills, Thom, Vice-Chair
Korth, Paul
Taylor, Todd
Fleming, Martin, M.D.
Grandy, Joe
Gaither, Keith, designee for the TennCare Director
Jordan, Lisa, designee for the Commissioner of Commerce and Insurance
Harding, Jaclyn, designee for the Comptroller of the Treasury

AGENCY MEMBER ABSENT

Ridgway, Corey

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Ausbrooks, Mark, Administrative Assistant III
Christoffersen, Jim, General Counsel
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, HSD Examiner
Farber, Mark, Deputy Director
Finchum, Rhonda, Administrative Officer

COURT REPORTER

Daniel, April

GUESTS PRESENT

Baker, Graham, Esq., Anderson and Baker
Barnett, Brandon, Senior Planning Analyst, Mountain States Health Alliance
Benton, Tony, COO, Johnson City Medical Center
Bradley, Roland, Board Member, Mountain States Health Alliance
Brent, Michael D., Esq., Bradley Arant Boult Cummings, LLP
Brown, Catondria, CFO, Premier HealthCare
Bugs, Nicole, CIC, Compass Intervention Center
Burchfield, Joe, Senior Vice President, THA
Burkley, George, Chief Strategy Officer, Signature Healthcare
Carpenter, Emily, Vanderbilt University Medical Center
Clein, Paul, M.D., Compass Intervention Center
Duckett, Greg, Chief Legal Officer, Baptist Memorial HealthCare Corporation
Duncan, Bruce, Assistant Vice President, National HealthCare Corporation
Elrod, Dan, Esq., Butler Snow
Estes, Blake, Executive Director, Planning, Saint Thomas Health Services
Falk, Peter, CEO, Signature Healthcare
Farrell, Jenny, Partnership Manager, USPI
Felts, Ginna, Business Development, Vanderbilt University Medical Center
Gregory, Audrey, CEO, Saint Francis Hospital Memphis
Hamper, Joe, CFO, Alive Hospice
Hornsby, Jennie, Administrator, Princeton Transitional Care
Limyansky, Bob, Partner, The Strategy House
Linn, Laura, Senior Planning Analyst, Mountain States Health Alliance
Locke, Chris, CEO, Saint Francis Hospital Bartlett

Looney, Kim, Esq., Waller Lansden
 Luffman, Jamie, Fire Chief, City of Mount Juliet
 Maples, Arthur, Director of Policy and Planning, Baptist Memorial Healthcare Corporation
 Martin, Kenny, City Manager, City of Mount Juliet
 McCown, Jason, Manager, Saint Francis Hospital
 McDow, Reginald, Vice President, Life Options of West Tennessee
 Merville, LaDonna, Vice President, Hospital Alliance of Tennessee
 Mills, Alex, Esq, Waller Lansden
 O'Neal, Anna Gene, CEO, Alive Hospice
 Olivier, Andre, Cardiologist, Saint Thomas Heart
 Pereira, Grace, Vice President of Post-Acute Services, Mountain States Health Alliance
 Pitzer, Jeremy, CEO, Compass Intervention Center
 Powell, DeAndre, Manager, Premier Health Care
 Putnam, Charles, President, Life Options of West Tennessee
 Reed, Ann, R., RN., BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities
 Reed, Billy, Board Member, Life Options of West Tennessee
 Rolfe, Billy, PVP, USPI
 Serley, Sam, Director of Analytics, Saint Francis Hospital
 Stenberg, Tara, Director of Development, Signature Healthcare
 Stokes, Jeff, CEO, Crestwyn Behavioral Health
 Strong, Cynthia, Alliance Team, Saint Thomas Health Services
 Swearingen, Travis, Esq., Butler Snow
 Tally, Sarah, Esq., Bone McAllester Norton PLLC
 Taylor, Dwayne, CEO, Mountain States Health Alliance
 Taylor, Jerry W., Esq., Burr & Forman
 Trauger, Byron, Esq., Trauger and Tuke
 Vetter, Stacia, Assistant Vice President, National HealthCare Corporation
 West, William H., Esq., Baker Donelson

ROLL CALL TO ESTABLISH QUORUM

Chairman Doolittle requested a roll call to establish a quorum.

PRESENT: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle

Nine members were present.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill made general announcements and announced the following tentative meeting dates for 2017: February 22, April 26, June 28, August 23, October 25, and December 13. She noted the February and April meetings would be held at the Davy Crockett Building on James Robertson Parkway and the June meeting at Legislative Plaza.

APPROVAL OF MINUTES

Chairman Doolittle presented the October 26, 2016 minutes for approval.

Ms. Jordan moved for approval of the minutes as presented. Mr. Korth seconded the motion. The motion CARRIED [9-0-0]. **APPROVED. Unanimous voice vote.**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle
 NAY: None

STATE HEALTH PLAN UPDATE

Elizabeth Jones, Assistant Director, Division of Health Planning, Department of Health, reported the following:

1. Commissioner Dreyzehner has approved the organ transplant standards and is reviewing the freestanding ED standards. Once approved, they will be forwarded to the Governor for approval.

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2. A questionnaire will most likely be sent to stakeholders to gather input regarding which criteria and standards need to be updated.

CONSENT CALENDAR APPLICATIONS

Melanie Hill summarized the following Consent Calendar Application:

Johnson City Medical Center MRI Project, Johnson City (Washington County), TN – CN1610-035

The addition of a 1.5 Tesla Magnetic Resonance Imaging (MRI) scanner, to be located at 400 N. State of Franklin Road, Johnson City, TN. This project will not involve any other service for which a Certificate of Need is required. The estimated project cost is \$2,023,108.

Ms. Hill noted at the time the application entered the review cycle, it was unopposed. She also noted it continued to be unopposed and that it met the statutory Certificate of Need criteria as follows:

Need – The need to add the third MRI is justified because Johnson City Medical Center is a high-acuity, tertiary referral center. The two MRIs on the Johnson City Medical Center campus were operating above the 2,880 threshold at an average of 3,234 per scanner in 2015. The utilization for all scanners in the service area in 2015 was 2,875 per unit, which is just under the State Health Plan guideline of 2,880 per unit. As the provider of Level 1 trauma center services, Northeast Tennessee Perinatal Center services, children's hospital services, and the largest provider of hospital-based TennCare services, Johnson City Medical Center truly is the safety-net provider for the region;

Economic Feasibility - The project is economically feasible because it is expected to realize a positive financial margin in year one; cash flow is projected to be \$285,852 and \$286,975, in years one and two, respectively. According to a 10/12/16 letter from Johnson City Medical Center VP/CFO Richard Boone, it will be funded from cash reserves. Mountain States Health Alliance audited consolidated balance sheet ending June 30, 2015 revealed cash and cash equivalence of \$79,714,000, total current assets of \$328,823,000 and current liabilities of \$235,593,000, for a current ratio of 1.4 to 1;

Healthcare that Meets Appropriate Quality Standards - Johnson City Medical Center is in compliance with all licensing, certifying, and accrediting agencies including the American College of Radiology (ACR). Johnson City Medical Center indicated it is prepared to ensure that it maintains accreditation through ACR for all of its MRI units, including this additional unit;

Contribution to the Orderly Development of Healthcare - This project does contribute to the orderly development of healthcare since the additional MRI scanner will be utilized to reduce extremely long wait times for patients requiring moderate sedation to anesthesia (currently two to five weeks). It has existing relationships with Quillen College of Medicine and is a training site for other colleges and universities for nurses, radiology technologists, and respiratory therapists. It participates in all TennCare MCOs in the service area.

Mr. Grandy moved for approval of the project based on Ms. Hill's justification. Ms. Harding seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle

NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON Applications:

Compass Intervention Center, Memphis (Shelby County), TN – CN1606-025

Dr. Fleming recused.

The establishment of a 48 bed inpatient mental health hospital for children and adolescents up to age 18 located at 7900 Lowrance Road, Memphis (Shelby County), TN 38125. The estimated project cost is \$12,152,661. **OPPOSITION:** Saint Francis Hospital, Crestwyn Behavioral Health, and Baptist Memorial Hospital-Memphis. **DEFERRED FROM OCTOBER 2016 TO DECEMBER 2016 MEETING.**

Byron Trauger, Esq., Jeremy Pitzer, CEO, Compass Intervention Center, and Paul Clein, M.D., Compass Intervention Center, addressed the Agency on behalf of the applicant.

Speaking in support was Joyce Mathis Jenkins, Jackson/Madison County Juvenile Court Services in Jackson, Tennessee.

Speaking in opposition were Kim Looney, Esq., on behalf of Crestwyn Behavioral Health; Audrey Gregory, CEO, Saint Francis Hospital Memphis; Jason McCown, Manager, Saint Francis Hospital Memphis; Jep Stokes, CEO, Crestwyn Behavioral Health and Greg Duckett, Chief Legal Officer, Baptist Memorial HealthCare Corporation.

Byron Trauger, Esq., rebutted.

Kim Looney, Esq., provided opposition summation.

Byron Trauger, Esq., provided applicant summation.

Mr. Grandy moved to **deny** the project based on the fact that it does not meet the orderly development of healthcare.

Ms. Jordan seconded the motion. The motion CARRIED [8-0-0]. **DENIED**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Grandy, Doolittle

NAY: None

Unicoi County Memorial Hospital, Erwin (Unicoi County), TN – CN1608-030

The relocation and replacement of Unicoi County Memorial Hospital with a 41,500 square foot 10-bed acute care replacement facility that will include an emergency department with 10 treatment rooms at an unaddressed site on Temple Road, Erwin (Unicoi County), TN. The estimated project cost is \$19,999,141.

Travis Swearingen, Esq., and Dwayne Taylor, CEO Southeast Region, Mountain States Health Alliance, addressed the Agency on behalf of the applicant.

Summation waived.

Ms. Jordan moved for approval of the project based on the following:

Need – The project is needed because the current facility is outdated and underutilized. Renovating the facility is cost prohibitive, and by relocating, it would be more accessible to patients especially in emergency situations;

Economic Feasibility – The project is financially feasible because, as stated before, a replacement and relocation will be less expensive than a renovation at the current location. The project can be funded through cash reserves of the parent, and even though there's no projection of profitability in the foreseeable future, this new facility will reduce the current operating losses significantly and Mountain States has committed to financially supporting this hospital in order to keep the services in Unicoi County;

Healthcare that Meets Appropriate Quality Standards - The project will provide healthcare that meets appropriate quality standards in that the hospital is licensed by the Department of Health and is accredited by the Joint Commission and certified by Medicare and TennCare;

Contribution to the Orderly Development of Healthcare - The project will contribute to the orderly development of healthcare by eliminating the number of underutilized licensed inpatient beds and shifting to outpatient services to better realign the services provided to the needs of the community. As this is the only hospital in the county, the project won't duplicate services and will not negatively impact other providers.

Mr. Mills seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle
NAY: None

TN SM, LLC. d/b/a Providence Surgery Center, Mt. Juliet (Wilson County), TN – CN1608-031

Mr. Korth recused.

The conversion of an existing ambulatory surgical treatment center (ASTC), which is limited to orthopedic and pain procedures, to a multi-specialty ASTC located at 5002 Crossing Circle, Suite 110, Mount Juliet, (Wilson County), TN 37122. The ASTC will include two operating rooms and one procedure room that will be re-designated as part of the proposed multi-specialty ASTC. The estimated project cost is \$235,387.

Byron Trauger, Esq., and Andre Olivier, M.D., Providence Surgery Center addressed the Agency on behalf of the applicant.

Speaking in support was Kenny Martin, City Administrator, City of Mount Juliet.

Previously not speaking but responding to questions from members was Michelle Dionne, Regional Vice President, USPI.

Summation waived.

Mr. Mills moved for approval of the project with the following **CONDITION: Limited to two operating rooms and one procedure room:**

Need – Regarding the need, there are no other multi-specialty ASTCs in Wilson County. There's a need for services not provided in the service area including the treatment of orthopedic, ENT, and pain surgeries. And the current existing ASTCs in Wilson County are restricted ASTCs;

Economic Feasibility – Regarding the economic feasibility, the Saint Thomas Health CFO has certified there are existing cash reserves available to fund this project;

Healthcare that Meets Appropriate Quality Standards - Regarding the quality measures and standards, the facility will be accredited by the Joint Commission Accreditation of Healthcare Organizations and licensed by the Tennessee Department of Health;

Contribution to the Orderly Development of Healthcare – Regarding the contribution to the orderly development of healthcare, this applicant provides for the unmet need of fully medically underserved Wilson County and partially medically underserved Davidson and Rutherford Counties. This multi-specialty ASTC is a more cost effective outpatient facility as compared to the hospital inpatient setting. The facility will not incur any additional building cost. The facility will provide ease of access being at the interstate of I-40 and Mt. Juliet Road. This project will also support the continuity of care for patients, and physicians in the area will have greater ability to provide services in the local market versus traveling and scheduling in adjacent counties. The project will not impact existing providers as there are no other multi-specialty ASTCs in the Wilson County area.

Mr. Grandy seconded the motion. The motion CARRIED [8-0-0]. **APPROVED** .

AYE: Jordan, Gaither, Taylor, Mills, Harding, Fleming, Grandy, Doolittle
NAY: None

LP Johnson City, LLC, Johnson City (Washington County), TN – CN1609-032

Mr. Grandy departed the meeting.

The replacement of a 47-bed nursing home per TCA § 68-11-1627 which permits one or more currently licensed nursing homes to be replaced with one single licensed nursing home. The new 47-bed facility will be located on the campus of what was formerly Northside Hospital which is now closed in Johnson City (Washington County), Tennessee. The facility will be created by relocating and replacing two Mountain States Health Alliance nursing homes—the 34-bed Princeton Transitional Care and the 13-bed Franklin Transitional Care, with the new 47-bed facility. Princeton Transitional Care is located within Johnson City Medical Center at 400 North State of Franklin Road and Franklin Transitional Care holds an inactive license at that same site. The estimated project cost is \$8,571,736.

Chris Puri, Esq., addressed the Agency on behalf of the applicant.

Previously not speaking but responding to agency members questions was George Burkley, Chief Strategy Officer, Signature Healthcare

Summation waived.

Mr. Taylor moved for approval of the project based on the following:

Need – The need is met as Washington County currently has the need based off of the formula in the application for an additional 190 beds, and this project also meets the 2014 State Health Plan that encourages a facility for modernization;

Economic Feasibility – The cost of the project is \$185.18 per square foot, which is slightly higher than the third quartile for new construction. Also, the funding of the project will be a combination of cash reserves and available financing according to the letter from the CFO of Signature Healthcare, also through the backing of Mountain States Alliance and a credit letter from First Republic Bank;

Healthcare that Meets Appropriate Quality Standards – Healthcare that meets appropriate quality standards is met as this facility will go through licensure through the State of Tennessee and also must pass the CMS Medicare certification process;

Contribution to the Orderly Development of Healthcare - It also meets the contribution to the orderly development. That is met as this proposal will not add beds to Washington County. It will not negatively affect

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other providers, and the applicant plans to also develop transfer agreements with the local hospitals and other healthcare providers.

Ms. Jordan seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Doolittle
NAY: None

Life Options of West Tennessee, Inc., Brighton (Tipton County), TN – CN1609-033

Mr. Grandy returned to the meeting.

The establishment of a new 30 bed nursing home that will consist of three (3) ten bed buildings located at an unaddressed site located at the south end of Grandview Drive, Brighton (Tipton County), TN. The estimated project cost is \$7,685,534.

Chris Puri, Esq., addressed the Agency on behalf of the applicant.

Previously not speaking but responding to agency members questions was Billy Reed, Board Member, Life Options of West Tennessee.

Summation waived.

Mr. Taylor moved for approval of the project based on the following:

Need – The bed need, according to the formula in the application, indicates that there's a bed need of 155 beds in Tipton County;

Economic Feasibility – The economic feasibility portion is met as the cost of this project per square foot is \$188.39, which is slightly higher than the third quartile for the new construction. And given the fact that this project involves a construction of three separate buildings, the per square foot cost, I feel, is appropriate. The financing for the project will be a commercial loan through the United States Department of Agriculture Rural Development program;

Healthcare that Meets Appropriate Quality Standards – The healthcare that meets appropriate quality standards will be met as this facility goes through and passes state licensure and certification survey process;

Contribution to the Orderly Development of Healthcare – Certainly, it contributes to the orderly development in that the project emphasis will be based on the construction of a greenhouse concept, which is the concept built around person-centered care. The greenhouse concept provision of care currently is also not available in Tipton County. It will also establish transfer agreements with local hospitals and other healthcare providers.

Mr. Grandy seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle
NAY: None

GENERAL COUNSEL'S REPORT

Mr. Christoffersen summarized the following CON modification requests:

The Health Center of Hermitage, Hermitage (Davidson County), TN – CN1404-011A

Request for 24 month extension, from August 1, 2017 to August 1, 2019, because of delays encountered by the project being put on hold pending the resolution of discrepancies between the life safety codes of CMS and the State of Tennessee on similar NHC projects. The resolution of life safety codes issues took considerable time.

Unanimously approved on the June 25, 2014 Consent Calendar for the change of site/relocation for an approved but unimplemented certificate of need (CN1306-022A) for a 90* bed Medicare-certified nursing home to a new site containing approximately 14.02 acres at 4214 Central Pike in Hermitage. The estimated project cost is \$19,241,697.

Steps have been taken toward completion of the project, including site acquisition, approval of zoning changes, site engineering, the expenditure of \$1.8 million, and other actions.

Travis Swearingen, Esq., addressed the agency on behalf of the applicant.

Mr. Grandy moved for approval of the 24 month extension from August 1, 2017, to August 1, 2019.

Mr. Taylor seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Gaither, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle

NAY: None

Collins Chapel Health & Rehabilitation Center, Memphis (Shelby County), TN-CN1202-011AEE

Mr. Gaither departed the meeting.

Request initially was for a six month extension of the expiration date but was extended to 12 months from February 1, 2017 to February 1, 2018.

Unanimously approved on June 27, 2012 for the establishment of a nursing home with 28 Medicare dually-certified skilled beds, to be located at 409 Ayers St., Memphis, TN 38105.

12 month extension, due to financing issues, from August 1, 2014 to August 1, 2015, was unanimously approved on February 26, 2014.

18 month extension, due to financing issues, from August 1, 2015 to February 1, 2017, was unanimously approved on May 27, 2015.

Construction finally commenced in July 2016, with completion originally anticipated for April 2017, per the applicant.

William West, Esq., addressed the Agency on behalf of the applicant.

Mr. Korth moved for approval of the 12 month extension, from February 1, 2017 to February 1, 2018 because the applicant finally obtained funding and the project is under construction, with an expected completion date of June 2017.

Ms. Jordan seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Taylor, Korth, Mills, Harding, Fleming, Grandy, Doolittle
NAY: None

Report to Agency Members:

The Village at Germantown Skilled Nursing Facility, Germantown (Shelby County), TN — CN1310-039AEE

Request for a 2 month extension, from December 1, 2016 to January 31, 2017, has been granted by the Agency's Executive Director, per the Agency's June 22, 2016 policy discussion regarding delegation of authority per TCA 68- 11-1606(d), because:

- CN1310-039AE would have expired prior to the Agency's December 2016 meeting.
- The project has been substantially completed; the Tennessee Department of Health has granted occupancy on phase 3 of 4, effective November 22, 2016.
- Remaining renovation work is expected to be completed prior to the end of January 2017.

Unanimously approved on January 22, 2014 for the addition of 20 Medicare-certified skilled beds to its existing 30 Medicare skilled bed nursing home.

STAFF REQUEST FOR AGENCY GUIDANCE

Life House Hospice, Inc. Cookeville (Putnam County), TN — CN1405-016A
Life House Hospice, Inc. Cookeville (Putnam County), TN — CN1406-023A

The above applications (the first being an Emergency CON application) requested the establishment of a home care organization to provide hospice services in Putnam County, Tennessee in conjunction with the existing Life House Residential Hospice located at 570 State Street, Cookeville, Tennessee. The emergency certificate of need and follow-up certificate of need were requested because Life House, a licensed residential hospice, had to cease all residential/inpatient operations due to its inability to become Medicare-certified because CMS will not certify a stand-alone residential hospice.

Agency staff seeks guidance whether to initiate a contested case pursuant to T. C. A. § 68-11-1619 for the revocation of these certificates of need. **DEFERRED TO FEBRUARY 2017 MEETING.**

QUALITY MEASURES TIMEFRAME UPDATE

Ms. Hill noted that per comments received from the Joint Government Operations Education, Health and General Welfare Subcommittee the Agency had been directed to get emergency rules in place on quality measures as soon as possible.

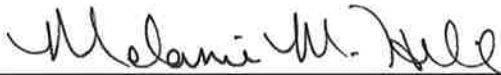
Ms. Hill reported the Agency had called for comments on quality measures with those comments being due by December 20, 2016. Once the comments were received, the comments would be transmitted to Agency members and posted on the Agency's website. The comments would then be reviewed with representatives from the Departments of Health, Mental Health and Substance Abuse Services, and Intellectual and Developmental Disabilities in early January and with a stakeholders meeting planned for late January. With input gathered from the meetings with the aforementioned department representatives, stakeholders, and comments received from Agency members, staff would then draft emergency rules to present for discussion at the February agency meeting.

PRIVATE DUTY HOME HEALTH UPDATE

Mr. Farber provided a brief historical update on home health agencies approved with a private duty limitation between 2005 and 2010 and the removal of those limitations. He noted those agencies had requested the limitation be removed so TennCare certification could be obtained because Medicare does not reimburse for private duty nursing. The agencies had opposition who were initially concerned the agencies would seek to serve typical Medicare clients requiring intermittent home health visits. The agencies had come back before the Agency to have the limitation removed because TennCare waiver requirements regarding Medicare certification had changed. Private Duty agencies were now required to be Medicare certified in order to obtain TennCare certification whereas originally they had not been. The agencies all asserted they wanted to continue to primarily serve the TennCare population and would only serve enough Medicare patients to maintain certification. The Agency removed the limitations but asked staff to report annually on the agencies. Mr. Farber referenced a chart he had prepared for the period of 2013-2015 that showed the home health agencies in question continued to serve only a minimal amount of Medicare patients as each had indicated it would.

ADJOURNMENT

There being no further business, the meeting adjourned.



Melanie M. Hill, Executive Director

* Minutes provide only a brief staff summary of the meeting and are not intended to be an all-inclusive report. The HSDA maintains a detailed record of each meeting (recording and transcript) that is available upon request by contacting the HSDA office at 615-7412364.